


THE
Present Case
STATED:

OR,

The OATHS of Allegiance and
Supremacy no Badges

OF

SLAVERY.

LONDON,

Printed for R. Baldwin. 1689.

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THE Ecclesiastical Jurisdiction of the Crown of England having been invaded and broke in upon by the Power of the Court of Rome, in *K. Henry the Eighth's* time all Foreign Power was abolished, and the Antient Legal Supremacy restor'd, and by many Additional Acts Corroborated. But all that was done of that kind, in *King Henry the Eighth's* time, was undone again in *Queen Mary's*; and therefore in the First year of *Queen Elizabeth's* Reign, an Act of Parliament was made, Entitled, *All Antient Jurisdiction restored to the Crown. A Repeal of divers Statutes, and Reviser of others: and all foreign Power Abolished*: Which Act recites, that whereas in the Reign of *R. H. 8.* divers good Laws were made and Established, as well for the utter extinguishment and putting away of all Usurped and Foreign Powers and Authorities out of this Realm, as also for Restoring and Uniting to the Imperial Crown of this Realm the antient Jurisdictions, Authorities, Superiorities, and Prebeminences to the same of Right belonging and appertaining; by reason whereof the Subjects of this Realm were kept in good order, and disburthened of divers great and intolerable Charges and Exactions, until such time as all the said good Laws and Statutes by one Act of Parliament made in the First and Second years of the Reigns of *King Philip* and *Queen Mary*, were clearly repealed and made void; by reason of which Act of Repeal the Subjects of England were offoons brought under an Usurped Foreign Power and Authority, and yet remained in that Bondage to their intole-

table Charges; and then Enacts, that for the Repressing of the said Usurped Foreign Power, and the restoring of the Rights, Jurisdictions and Prebeminences appertaining to the Imperial Crown of this Realm, The said Act made in the First and Second years of the said late King Philip and Queen Mary (except as therein is excepted) be repealed, void, and of none effect.

The said Act of *Primo Elizabeth.* proceeds, First, to Revive by express words many Statutes that had been made in King Henry the Eight's time, and repealed in Queen Maries; and Secondly, to abolish all foreign Authority in these words; [*viz.*] And to the intent that all Usurped and Foreign Power and Authority Spiritual and Temporal, may for ever be clearly extinguished, and never to be used or obeyed within this Realm, &c. May it please your Highness that it may be Enacted, That no Foreign Prince, Person, Prelate, State, or Potentate, Spiritual or Temporal, shall at any time after the last day of this Session of Parliament, use, enjoy, or exercise any manner of Power, Jurisdiction, Superiority, Authority, Prebeminence or Privilege, Spiritual or Ecclesiastical within this Realm, &c. but the same shall be clearly abolished out of this Realm, &c. Any Statute, Custom, &c. to the contrary notwithstanding. Thirdly, the said Act restores in the next Paragraph to the Imperial Crown of this Realm, such Jurisdictions, Priviledges, Superiorities, &c. Spiritual and Ecclesiastical, as by any Spiritual or Ecclesiastical Power or Authority had theretofore been, or might lawfully be exercised or used, &c. Fourthly, the Act impowers the Queen to assign Commissioners to exercise Ecclesiastical Jurisdiction. And Fifthly, For the better observation and maintenance of this Act, Imposes upon Ecclesiastical and Temporal Officers and Ministers, &c. the Oath, commonly call'd the Oath of Supremacy, which runs thus; (*viz.*)

The Oath of SUPREMACY.

I A. B. do utterly testify and declare in my Conscience, that the Queen's Highness is the only Supream Governour of this Realm; and of all other her Highness's Dominions and Countries, as well in all Spiritual or Ecclesiastical Things and Causes as Temporal; and that no Foreign Prince, Person, Prelate, State, or Potentate hath or ought to have any Jurisdiction, Power, Superiority, Preheminence or Authority Ecclesiastical or Spiritual within this Realm; And therefore I do utterly renounce and forsake all Foreign Jurisdctions, Powers, Superiorities, and Authorities, and do promise that from henceforth I shall bear Faith and true Allegiance to the Queen's Highness, her Heirs and Lawful Successours; and to my Power shall Assist and Defend all Jurisdctions, Priviledges, Preheminencies and Authorities, Granted or belonging to the Queen's Highness, her Heirs and Successours, or united and annexed to the Imperial Crown of this Realm. So help me God, and by the Contents of this Book.

It cannot but be obvious to every Impartial pursuer of the Statute, especially if he have the least knowledge of what Condition the Government of this Nation was reduced to by Papal Encroachments and Usurpations. That the Makers of this Law, and the Sence of this Oath, was no other in general, than that the People of this Realm should bear Faith and true Allegiance, even in Matters relating to Ecclesiastical Jurisdiction, to the Queen's Highness, her Heirs and Lawful Successours, and not to the Pope or any foreign pretended Jurisdiction.

What the several ' Jurisdictions, Priviledges, Preheminences and Authorities Granted or belonging to the Queen, ' her Heirs and Succellours, are in particular; and what the ' Jurisdictions, Priviledges, Preheminences and Authorities ' United and Annexed to the Imperial Crown of this Realm, are in particular, is not material here to be discoursed of; though the several Statutes made in ' King *Henry the Eighth's* ' time, and King *Edward the Sixth's*, and revived in Queen ' *Elizabeth's*, will unfold many of them; and clear the distinction, which the *OATH* makes, betwixt ' Authorities ' Granted or belonging to the King, and Authorities united ' and annexed to the Imperial Crown: and Mr. *Pryn's* History of the Pope's intolerable Usurpations upon the Liberties of the Kings and Subjects of *England and Ireland*; together with ' Sir *Roger Twisden's* Historical Vindication of the Church of *England* in point of Schism, will in a great measure acquaint the Curious how matters stood with us here, with respect to Church-Government, before the Pope had wrested the Ecclesiastical Jurisdiction almost wholly out of the hands of our Kings, our Parliaments and Courts of Justice. In short, those Jurisdictions, &c. are such as the Ancient Laws, Customs, and Usages of the Realm, or latter Acts of Parliament have Created, Given, Limited and Directed.

The Makers of this Law did not design to impose upon the People of *England* any new Terms of Allegiance, but to secure the old ones, Exclusive of any Pretences of the Pope or See of *Rome*.

Nor are there any words in this *Oath* more strong, more binding to Duty and Allegiance, than are words which the old *Oath of Fealty* is conceived in; which all men were anciently obliged, and may yet be required to take to the King in the Court-Leet at twelve years of Age; which runs thus; (*viz.*)

You

You shall swear that from this day forward you shall be true and Faithful to our Sovereign Lord King James and his Heirs: And faith and truth shall live of life and limb and current Honour, And you shall not know nor hear of any ill or damage intended to him, that you shall not defend. So help you Almighty God.

This is as full and comprehensive, as the Oath of Supremacy; I do promise that I shall bear faith and true Allegiance to the Queen's Highness, her Heirs and Lawful Successors, and to my power shall assist and defend all Jurisdictions, &c. So that the true sense and meaning of the Oath of Supremacy, is this, viz. I will be true and Faithful to our Sovereign Lord the King, his Heirs and Lawful Successors, and will to my power Assist and defend all his Rights, notwithstanding any pretence made by the Pope or any other Foreign Power to exercise Jurisdiction within the Realm, all which Foreign Power I utterly renounce in matters Ecclesiastical as well as Temporal.

The Oath of Allegiance is appointed by the Act of 3. Jac. 1. Chap. 4. Entituled, An Act for discovering and repressing of Popish Recusants. It recites the daily experiences that many of his Majesty's Subjects, that adhere in their hearts to the Popish Religion, by the Infection drawn from thence, by the wicked and devillish Counsel of Jesuits, Seminaries, and other like persons dangerous to the Church and State, are so far perverted in the point of their Loyalties and due Allegiance to the King's Majesty, and the Crown of England, as they are ready to entertain and execute any Treasonable Conspiracies and Practices: And for the Better Tryal how his Majesty's Subjects stand affected in point of their Loyalties and due obedience, Enacts that it shall be Lawful for any Bishop in his Diocesse, or any two Justices of the Peace, whereof one to be of the Quorum, within the Limits of their Jurisdiction, one of the Sessions, to require any person of the age of eighteen Years or above, which shall be con-

vult.

viſit or indicted of Recuſancy, other then Noblemen, &c. or which ſhall not have received the Sacrament twice within the Year then next paſt, or any perſon paſſing in or through the Country, unknown, that being examined upon Oath ſhall confeſs, or not deny him or her ſelf to be a Reck- ſant, and to take the Oath therein after expreſſed; viz. &c. the Oath of Allegiance.

So that by the Occaſion of impoſing the Oath, and by the appointing it to be tendered only to Papiſts or ſuſpe- cted Papiſts, it is apparent that the Deſign of the Law- makers was to detect ſuch perſons as were perverted, or in danger to be perverted in their Loyalty, by Infection drawn from the Popiſh Religion.

The form of the Oath makes it yet more evident, being wholly levell'd againſt any opinion of the Lawfulneſs of depoſing, the King or practiſing any Treason againſt him, upon pretence of his being Excommunicated or deprived by the Pope. And againſt any opinion of the Pope's power to diſcharge Subjects from their Oaths of Fidelity to their Princes. It runs this; viz.

I A. B. Do truly and ſincerely profeſs, teſtify, and declare in my Conſcience before God and the World, that our Sovereign Lord, King James, is Lawful and Rightful King of this Realm, and of all his Maſteſty's Dominions and Countreies: And that the Pope, neither of himſelf, nor by any authority of the Church or See of Rome, or by any other means, with any other, hath any power or authority to depoſe the King, or to diſpoſe any of his Maſteſty's Kingdoms or Dominions, or to Authorize any Foreign Prince to invade or annoy him, or his Countreies, or to diſcharge any of his Subjects of their Allegiance or Obedience to his Maſteſty, or to give licence or leave to any of them to bear arms, raiſe tumults, or to offer any violence or hurt to his Maſteſty's Royal Perſon, State or Government, or to any of his Maſteſty's Subjects within his Maſteſty's Dominions.

Alſo

Also I do swear from my heart, that notwithstanding any Declaration or Sentence of Excommunication, or deprivation made or granted, or to be made or granted by the Pope or his Successors, or by any Authority derived or pretended to be derived from him or his See, against the said King, his Heirs and Successors, or any absolution of the said Subjects from their Obedience, I will bear Faith and true Allegiance to his Majesty, his Heirs and Successors, and him and them will defend to the Uttermost of my power against all Conspiracies and attempts whatsoever, which shall be made against his or their Persons, their Crown and Dignity, by reason or colour of any such Sentence or Declaration, or otherwise, and will do my best endeavour to disclose and make known unto his Majesty, his Heirs and Successors, All Treasons and Traiterous Conspiracies, which I shall know or hear of to be against him, or any of them.

And I do further swear, that I do from my heart abhor and detest and abjure, as impious and heretical, this damnable Doctrine and position, That Princes, which be Excommunicated or deprived by the Pope, may be deposed or murdered by their Subjects, or any other whatsoever.

And I do believe, and in Conscience am perswaded, that neither the Pope nor any Person whatsoever, hath Power to absolve me of this Oath, or any part thereof, which I acknowledge by good and Lawful authority to be Lawfully administered unto me, and I do renounce, all Pardons and Dispensations to the contrary. And all these things I do plainly and sincerely acknowledge and swear, according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any Equivocation, or mental Reservation, or secret reservation whatsoever. And I do make this Recognition and acknowledgement heartily, willingly and truly, upon the true Faith of a Christian. So help me God.

And the Statute of 7 Jacobi Cap. 6. Recites, that Whereas by a Statute made in the third year of the said King's Reign, the form of an Oath to be ministred and given to

to certain persons in the same Act mentioned, is limited and prescribed, tending only to the declaration of such duty, as every true and well affected Subject, not only by bond of Allegiance, but also by the Commandment of Almighty God, ought so bear to the King, his Heirs and Successors; Which Oath such are affected with Popish Superstition do oppugne with many false and unsound Arguments, the just defence whereof the King had therefore undertaken and worthily performed, to the great contentment of all his Subjects, notwithstanding the gainsayings of contentious Adversaries. And to shew how greatly the King's Loyal Subjects do approve the said Oath, they beseech his Majesty, that the said Oath be administered to all his Subjects.

The Pope, and Authority of the See of Rome run through the first Paragraph; Notwithstanding any Declaration, or Sentence of Excommunication, &c. Governs the second Paragraph: Excommunicated and deprived the Pope are the material words in the third Paragraph. The fourth is added in the jorem cautelam, in opposition to the Popish Doctrine of Dispensing with Oaths, Absolving Subjects from their Allegiance, Equivocations, Mental Evasions, &c.

So that as the Oath of Supremacy did but enforce the Ancient Oath of Fealty, with an acknowledgement of the Queen's supreme Authority in Ecclesiastical Causes and things, as well as Temporal, and a renunciation of all Foreign Jurisdictions; so the Oath of Allegiance does but enforce the same Old Oath of Fealty, by obliging the Subjects of England expressly to disavow any Lawful Authority in the Pope or See of Rome to Depose, invade or annoy the King, his Dominions or Subjects. And notwithstanding any Sentence of Excommunication, Deprivation, &c. by the Pope, &c. to bear Faith and true Allegiance to the King, his Heirs and Lawful Successors; And to Abjure that Position, that it is lawful to Depose Princes that are Excommunicated or Deprived by the Pope.

Whatever

Whatever is added, is either *Oath* over and above what was exprest in the *Old Oath of Fealty*, is but as *Explanatory* of it, and *Branching* it out into such particulars, as time and occasion required.

So that the *Oaths of Supremacy and Allegiance* not having altered the *Terms of Allegiance*; due from the *People of England* to their *Princes*, if their *Princes* by *ancient Laws of the Realm*, and by the *practice of our Forefathers*, were liable to be *Deposed by the great Councils of the Nation*, for *mal-administration*, *Oppressions*, and other *Exorbitancies*, for not keeping their *Coronation Oaths*, for *Insufficiency to Govern*, &c. then they continue still liable to be *deposed in like manner*, the said *Oaths*, or any obligation contracted thereby, notwithstanding.

For the *Practice of Former times*, I shall begin with a very *Antient President* in the *Kingdom of the West-Saxons*. (viz.)

Cudred King of *West-Saxony* being dead, *Sigebert* his *Kinsman* Succeeded him in that *Kingdom*, & held it but a small time; for being puffed up with *Pride* by the *Successes of King Cudred* his *Predecessor*, he grew insolent, and became intolerable to his *People*. And when he evil entreated them all manner of ways,

Cudredo Rege West-Saxiæ defuncto, Sigebertus Cognatus ejus sibi in eodem Regno successit; brevi tamen tempore Regnum tenens, nam ex Cudredi Regis Predecessoris sui eventibus tumefactus, & Insolens Intolerabilis suis fuit cum autem

and either wrested the Laws for his own ends, or eluded them for his own advantage; Cumbra one of his chief Officers, at the request of the whole People, intimated their Complaints to the Savage King. And because he perswaded the King to govern his People more mildly, and that laying aside his barbarity, he would endeavour to appear acceptable to God and man; the King immediately Com-manded him to be put to death, and encreasing his Tyranny, became more cruel and intolerable than before: whereupon in the beginning of the Second year of his Reign, because he was arriv'd to an incorrigible pitch of Pride and Wickedness, the NOBLES and the PEOPLE OF THE WHOLE KINGDOM Assembled together, and upon MATURE DELIBERATION, did by UNANIMOUS CONSENT OF THEM ALL, drive him out of the King-

eos modis omnibus male tractaret, legesque vel ad commodum suum depraveret, vel pro commodo suo devitaret, Cumbra Consul ejus Nobilissimus prece totius populi Regi fero eorum querimonias intimavit. Et quia ipse Regi suaserat, ut lenius Populum suum Re-gere, & inhumanitate deposita Deo & hominibus amabilis appareret, Rex eum impiâ nece mox interfici jubens, populo sævior & intolerabilior quam prius suam tyrannidem augmentavit, unde in principio secundi Anni Regni sui cum incorrigibilis superbiæ & nequitia esset, Congregati sunt PROCERES & POPULUS totius REGNI & cum PROVIDA DELIBERATIONE a Regno UNANIMI CONSENSU OMNIUM expellebant. Cu-

dom,

dom. In whose stead they
Chose *Kenwolph* an Excel-
lent Youth; and of the
Royal Blood, to be King
over the People and King-
dom of the *West-Saxons*.
Collect. p. 769, 770. *ibid.*
p. 795, 796.

ius. Loco Kenwolsum Jarve-
nem egregium de Regia stirpe
oriundum, in Regem super
Populum & Regnum West-
Saxie elegerunt. Collect.
769, 770. *ibidem*, p. 795,
796.

This Deposition of King *Sigebert* appears to have been
done in a formal and orderly manner; viz. in a Conven-
tion of the *Proceres* and the *Populus totius Regni*; and it
was done *provida deliberatione & unanimi Omnium Consensu*,
and consequently was not an Act of Heat, Rebellion,
or Tumultuary Insurrection of the People; But was what
the whole Nation apprehended to be Legal, Just, and ac-
cording to the Constitution of their Government, and no
breach of their Oaths of Allegiance.

Nor have we any reason to wonder that the *English* Na-
tion should free themselves in such a manner from Oppression,
if we consider that by an Ancient Positive Law Enacted in
K. Edw. the Conf. time, and confirmed by *William the Con-*
queror, the Kings of *England* are liable to be deposed, if
they turn Tyrants.

The *King*, because he is the Vicar of the Supreme King, is constituted to this end and purpose, that he may govern his Earthly Kingdom and the People of the Lord, and especially to Govern and Reverence God's Holy Church, and defend it from injuries, and root out, destroy, and wholly to extirpate all wrong-doers. Which if he do not perform, **HE SHALL NOT RETAIN SO MUCH AS THE NAME OF A KING.** And a little after; The *King* must Act all things according to Law, and by the Judgment of the *Proceres Regni*. For Right and Justice ought to Reign in the Realm rather than a perverse Will. It is the Law that makes Right; But Wilfulness, Vio-

Rex autem, quia Vicarius summi Regis est, ad hoc est constitutus, ut Regnum terrenum & Populum Domini, & super omnia sanctam veneretur Ecclesiam ejus & regat, & ab injuriis defendat, & maleficos ab ea evellat & destruat, & penitus disper. Quod nisi fecerit, nec nomen Regis in eo constabit. Et paulo post; Debet Rex omnia rite facere in Regno, & per Judicium Procerum Regni. Debet enim Jus & Justitia magis regnare in Regno, quam voluntas prava. Lex est semper quod Jus facit, voluntas autem, Violentia & Vis non est Jus. Debet vero Rex Deum timere super omnia & diligere, & mandata ejus per totum Regnum suum servare. Debet etiam sanctam Ecclesiam Regni sui cum om-
lence.

lence and Force is not Right. The King ought above all things to fear and love God, and to keep his Commandments throughout his Kingdom. He ought also to preserve, to cherish, maintain, govern and defend against its Adversaries, The Church within his Kingdom entirely and in all freedom, according to the Constitutions of the Fathers and of his Predecessors, that God may be honoured above all things, and always be had before men eyes. He ought also to set up good Laws and approv'd Customs, and to abolish evil ones, and put them away in his Kingdom. He ought to do right Judgment in his Kingdom, and maintain Justice by Advice of the *Proceres* Re-

ni integritate & libertate juxta Constitutiones Patrum & Prædecessorum servare, fovere, manutenerere, regere, & contra inimicos defendere, ita ut Deus præ cæteris honoretur, & præ oculis semper habeatur. Debet etiam bonas Leges & Consuetudines approbatas erigere, pravas autem delere, & omnes à Regno deponere. Debet Judicium Rectum in Regno suo facere, & Justitiam per Consilium Procerum Regni sui tenere. Ista vero debet omnia Rex in propria persona, inspectis & tactis sacrosanctis Evangelis, &
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gni sui. All these things the King, in proper Person, looking upon and touching the Holy Gospels, and upon the Holy and Sacred Reliques, must swear in the Presence of his People and Clergy to do, before he be crown'd by the Archbishops and Bishops of the Kingdom. *Lamb. of the Ancient Laws of England, pag. 142.*

super sacras & sanctas reliquias coram Regno & Sacerdotio & Clero jurare antequam ab Archiepiscopis & Episcopis Regni Coronetur. Lamb. de Priscis Anglorum Legibus, p. 142.

Another instance of the *Deposition* of a King of England, subsequent to this Law, we find in King John's time, whose *Oppressions* and *Tyrannical Government* our Histories are full of. Of which take this following Account out of a very Ancient Historian.

Whereas the said John had sworn solemnly at his Coronation, as the manner is, that he would preserve the Rights and Usages of the Church and Realm of

*Cum præfatus Johannes in Coronatione sua solemniter prout moris est Jurasset, se Jura & Consuetudines Ecclesie & Regni Angliæ conservaturum, contra juramen-
England,*

England, yet contrary to his Oath, he subjected, as far as in him lay, the Kingdom of England, which has always been free, and made it tributary to the Pope, without the Advice and Consent of his Barons; subverting good Customs, and introducing evil ones, endeavouring by many oppressions, and many ways to enslave both the Church and the Realm, which oppressions you know better than I, as having felt them by manifold Experience. For which Causes, when after many applications made, War was waged against him by his Barons, at last, amongst other things it was agreed, with his express consent, that in case the said John should return to his former Villanies, the Barons should be

tum suum absque consilio vel consensu Baronum suorum idem Regnum, quod semper fuit Liberum, quantum in ipso fuit, Domino Pape Subjecit, & fecit tributarium, bonas consuetudines subvertens, malas inducens, tam Ecclesiam quam Regnum multes oppressionibus multisque modes studens ancillare, quas oppressiones vos melius no- stis, quam nos, ut qui eas Familiari sensistis Experimento. Pro quibus, cum post multas requisitiones guerra mota esset contra ipsum a Baronibus suis, tandem inter cætera de ejus expresso consensu ita convenit, ut si idem Johannes ad flagitia prima rediret, ipse Barones ab ejus Fidelitate recederent, nunquam ad eum post modum reverturi. Verum ipse nihilominus paucis diebus Evolu-

at

at Liberty to recede from their Allegiance to him, never to return to him more. But he, after a few days, made his latter end worse than his beginning, endeavouring not only to oppress his Barons, but wholly to exterminate them; who therefore in a *GENERAL ASSEMBLY* and with the *APPROBATION* of *ALL THE REALM*, adjudging him unworthy to be King, *CHOOSE* Us for their Lord and King. *Collect. p. 1868, 1869. Chron. W. Thorn.*

*tis, fecit novissima sua pe-
jora prioribus, studens Ba-
rones suos non tantum oppri-
mere, sed potius penitus
exterminare. Qui DE
COMMUNI REGNI
CONSILIO & AP-
PROBATIONE ipsum
Regno Judicantes indignum,
nos in Regem & Dominum
Elegerunt. Collect. 1868,
1869 : Chron. W. Thorn :
Lewis his Letter to the
Abbot of St. Austins, Can-
terbury.*

The next Instance shall be that of King *Edward the Second* : the Record of whose *Deposition*, if it were extant, would probably disclose all the *legal Formalities* that were then accounted proper for the deposing an *Unjust, Oppressive King* : But they were cancelled and imbezled (as is highly probable from *Rastal's Stat. pag. 170, 171.* compar'd with the Articles exhibited in Parliament against *King Richard the Second*, of which hereafter) in *King Richard the Second's* time, and by his Order : Yet the Articles themselves are preserv'd in the *Collect.* And are as followeth ; viz.



Accorde

Accorde est que Sire Edward Fitz aîné du Roy ait le Gouvernement du Royaume & soit Roy Couronne, par les causes que s'ensuent.

1. *Par ceo que la person le Roy n'est pas suffisant de Gouverner. Car en tout son temps il ad estre mene & gouverne per auters que ly ont mauvaîsment conseillex, à deshonour de ly & destruction de Saint Esglise, & de tout son People sanz ceo que il le voulsist veer ou consister lequel il fust bon ou mauvais ou remedie mettre, ou faire le voulsist quant il fust requis par les Grants & sages de son Royaume, ou souffrir que amende fust faite.*

2. *Item, Par son temps il ne se voloît doner à bon Counsel, ne le croire, ne à bon Gouvernement de son Royaume, mes se ad done tous Jours as ouvrages & occupations nient convenables, enterlessant l'espoir des besoignes de son Royaume.*

3. *Item, Par default de bon gouvernement ad il perdu le Royaume d'Escoce & autres terres & seigneuries en Gascoyne & Hyrland, les queux son Pere le leisa en pees & amisté du Roy de France, & detz mults des autres Grants.*

It is accorded that Prince Edward, the King's eldest Son, shall have the Government of the Kingdom, and be crowned King for the Causes following.

1. For that the person of the King is insufficient to govern: for that during his whole Reign he has been led and governed by others, who have given him Evil Counsel, to his Dishonour and the destruction of Holy Church, and of all his People; he being unwilling to consider or know what was good or evil, or to provide remedy even when it was required of him by the Great and Wise Men of his Realm, or suffer any to be made.

2. Also, during all his time, he would neither hearken to, nor believe good Counsel, nor apply himself to the good Government of his Realm, but hath always given himself over to Things and Occupations, altogether inconvenient, omitting in the mean time the necessary Affairs and business of the Kingdom.

3. Also, For want of good government, he hath lost the Kingdom of Scotland, and other Lands and Territories in Gascoyn and Ireland, which his Father left him in peace and friendship with the Freneb King,

D

4. Item,

4. Item, Par sa fierté & qualité & par mauvais Conseil ad il destruit Saint Eglise, & les personz de Saint Eglise tenus en prison les uns: & les autres en distress, & aucuns plusieurs grants & nobles de sa terre mys à honteuse mort, enprisonés, exilés & desheritez.

5. Item, Là ou il est tenu par son serment à faire droit à toute il ne l' ad pas volu faire, par son propre profit & covetise de ly, & de ces mauvais conseiliers, que ont esté pres de ly, Ne ad garde les autres points del serment qu' il fist à son Coronement, si come il fust tenu.

6. Item, Il deguerpist son Royaume & fist tant come en ly fust que son Royaume & son People fust perduz, & que pys est, par la cruauté de ly & defaute de sa personne il est trouvé incorrigible saunz esperance de amendement, les queux choses sont si notoires, qu' ils ne pouint estre desdits.

For these Causes, De Consilio & Assensu omnium Prælatorum, Comitum & Baronum & totius Communis Regni Amotus est à Regimine Regni. [Apolog. Ade de Orleton, Collect. p. 2765, 2766.]

and with many other Grandees.

4. Also, By his Pride and Arrogance and Evil Counsel, he hath destroyed Holy Church; imprisoning some persons thereof, and put others in distress, And also he hath put to a shameful death, imprisoned and disinherited many of the Great Men, and Nobles of the Land.

5. Also, Whereas he is bound by his Oath to administer Justice to all, he would not do it, through his own Covetousness, and that of Evil Counsellors, that were about him; neither hath he kept the other Points of the Oath, which he took at his Coronation, as he was bound.

6. Also, He hath wasted his Kingdom, and did what in him lay; that his Realm and People should be destroy'd; and, which is worse, by his Cruelty and personal Failings or Defects he is found to be incorrigible, and past all hopes of amendement. All which things are so notorious, that they cannot be denied.

For these Causes, by Advice and Assent of all the Prelates, Earls and Barons, and of the whole Commonalty of the Kingdom, he was deposed from the Government. [Apology of Adam de Orleton, Collect. p. 2765, 2766.]

These

These Proceedings against King *Edward the Second* are no-where extant but in that Author. Which is the less to be wondred at, if we consider, that in *King Richard the Second's* time the King's Parasitical Court-favourites so influenced the Judges; That to the Question, *How he was to be punished, that moved in the Parliament, that the Statute should be sent for; whereby Edward, the Son of King Edward, was another time endited in the Parliament; They answered, That as well he that moved, as the other who by force of the same motion brought the said Statute into the Parliament House, be as criminous and Traitors worthy to be punished.* V. Raitall's Statutes, 170, 171. (Tho for that and other Extravagant, Pernicious and Treasonable Opinions delivered, those Judges were severely punished, as is notoriously known.) And also, That it was afterwards one Article of Impeachment against *King Richard the Second*, *That he had cancelled and razed sundry Records.*

In *King Richard the Second's* time many Animosities arose from time to time betwixt him and his Parliaments; Insomuch, that in the 11th year of his Reign, the Parliament then sitting at London, the King absented himself from them, and stayed at *Eltham*, refusing to come at them, and join with them in the Publick Affairs: upon which occasion the Lords and Commons sent Messengers to him with an Address; which the Historian *H. Knighton* sets forth at large, and which I will here give the Reader a transcript of at large, because it will afford many useful Inferences and Observations.

Salubri igitur regi consilio miserunt, de Communi Assensu totius Parliamenti Dominum Thomam de Wodestoke, Ducem Glocestrie, & Thomam de Arundell, Episcopum Elyensem, ad Regem apud Eltham, qui salutarent eum ex parte Procerum & Communium Parliamenti sui, sub tali sensu verborum ei referentes vota eorum.

Wherefore taking whollome Advice, they sent by common Assent of the whole Parliament, the Lord *Thomas de Woodstock*, Duke of Gloucester, and *Thomas de Arundell* Bishop of Ely, to the King, to *Eltham*, to salute him on behalf of the Lords and Commons of his Parliament, who express'd their Desires to the King to this effect.

Domine Rex, Proceres & Domini atque totus populus communitatis Parliamenti vestri, cum humilissima subiectione se commendant Excellentissimo Regalis Dignitatis vestre, cipientes prosperum iter invincibilis honoris vestri contra inimicorum potentiam, & validissimum vinculum pacis & dilectionis cordis vestri erga subditos vestros, in augmentum commodi vestri, erga Deum, & salutem animæ vestre, & ad inedicibilem consolationem totius populi vestri quem regitis: Ex quorum parte hæc vobis intimamus, Quod ex antiquo Statuto habemus, & Consuetudine laudabili & approbata, cuius contrarietati dici non valebit, quod Rex hostes convocare potest Dominos & Proceres Regni atque Communes semel in anno ad Parliamentum suum, tanquam ad summam curiam totius Regni, in qua omnis equitas relucere deberet absque qualibet scrupulositate vel nota, tanquam Sol in ascensu meridiei, ubi pauperes & divites pro refrigerio tranquillitatis & pacis, & repulsionem injuriarum refugium infallibile querere possent, ac etiam errata Regni reformare, & de Statu & Gubernatione Regis & Regni cum sapientiori consilio tractare, & ut inimici Regis & Regni intrinseci & hostes extrinseci destruantur & repellantur, quomodo convenientius & honorificentius fieri poterit cum salubri tractatu in eo disponere & præ-

Sir, The Lords, and all the Commons of your Parliament, have themselves commended to your most Excellent Majesty, desiring the success of your Invincible Honour against the Power of your Enemies, and a most firm bond of Peace and Love in your heart towards your Subjects, for your Good Godwards, and the Good of your Soul, and to the unspeakable comfort of all your People whom you govern: On whose behalf we intimate these things to you; That it appears to us by an ancient Statute, and by laudable and approved Usage, which cannot be denied, that our King can call together the Peers of the Realm and the Commons once a year to his Parliament, as to the supreme Court of the whole Kingdom, in which all Right & Justice ought to shine forth without any doubt or stain, as the Sun at Noon-day, where Poor and Rich may find an infallible Refuge, to enjoy the refreshments of Tranquillity and Peace, and for repelling of Injuries; where also Errors in Government are to be reformed, and the State and Government of King and Kingdom treated upon by sage Advice, and the destroying and repelling of both intestine and foreign Enemies to the King and Kingdom, with most Convenience and Honour, videre

videre; qualiter neque onera incumben-
 tia Regi & Regno levius ad edi-
 am communitatis supportari poterunt.
 Videtur etiam iis, quod ex quo on-
 era supportant incumbentia, habent
 etiam supervidere qualiter & per quos
 eorum bona & catalla expendantur.
 Dicunt etiam quod habent ex Anti-
 quo Statuto, quod si Rex a Par-
 liamento suo se alienaverit sua spon-
 te, non aliqua infirmitate, aut ali-
 qua alia de causa necessitatis, sed
 per immoderatam voluntatem pro-
 tectus se subtraheret per absentiam
 temporis quadraginta dierum, tan-
 quam de vexatione populi sui & gra-
 vibus eorum expensis non curans,
 et tunc licet omnibus & singulis
 eorum, quique domino Regis redi-
 re ad propria, & unicuique eorum
 in patriam suam remeare: Et jam
 vos ex longiore tempore absentastis,
 & quid de causa nescimus, venire re-
 misistis. Ad hæc Rex, Jam plane
 consideramus, quod populus noster a-
 que communes intendunt resistere, at-
 que contra nos insurgere moluntur;
 & in tali infestatione melius no-
 bis non videtur, quin cognatum
 nostrum Regem Francie,
 & ab eo consilium & auxilium
 petere contra insudantes, & nos
 ei submittere potius quam suc-
 cumbere subditis nostris. Ad hæc
 illi responderunt. Non est hoc vo-
 bis sanum consilium, sed magis du-
 cent ad inevitabile detrimentum;
 nam Rex Francie capitalis ini-

may be debated upon, and pro-
 vided for, as also in what man-
 ner the Charges incumbent up-
 on the King and Kingdom may
 be born with most ease to the
 Commonalty. They conceive
 likewise, that since they bear the
 incumbent Charges, it concerns
 them to inspect how and by
 whom their Goods and Chattels
 are expended. They say also,
 that it appears to them by an
 ancient Statute, that if the King ab-
 sent himself from his Parliament
 voluntarily, not by reason of
 sickness, or for any other necessa-
 ry cause, but through an inordi-
 nate will, shall wantonly absent
 himself by the space of forty days,
 as not regarding the vexation of
 his People, and their great Ex-
 pences, it shall then be lawful to
 all and singular of them to re-
 turn to their own homes without
 the King's leave: And you have
 now been longer absent, and
 have refused to come to them,
 for what cause they know not.
 Then said the King, I now plainly
 see that my People and the Com-
 mons design to oppose me with
 force, and are about to make an
 Insurrection against me: And if
 I be so infested, I think the best
 course I can take will be to
 my Cousin the King of France, and
 ask his Advice, and pray in Aid of
 him against those that may lay me,
 micus

amicus vester est, & Regni vestri adversarius permaximus; & si in terram Regni vestri pedem figeret potius, vos spoliare laboraret & Regnum vestrum invadere, vosque a sublimitate Regalis solii expellere, quam vobis aliquatenus manus adjutrices cum favore apponere; si quod ablit, ejus suffragio quandoque indigeretis. Ad memoriam igitur revocetis, qualiter avus vester Edwardus tertius Rex, & similiter pater Edwardus Princeps noster ejus in sudore & angustis in omni tempore suo per innumerabiles labores in frigore & calore certaverunt indefesse pro conquestione Regni Franciæ, quod eis jure hereditario attinebat, & vobis per successionem post eos. Reminiscamini quoque qualiter Domini Regni & Proceres atque Communes innumerabiles tam de Regno Angliæ quam Franciæ, Reges quoque & Domini de aliis Regnis atque populi innumerabiles in Guerrâ illâ mortem & mortis periculum sustinuerunt, bona quoque & catalla inestimabilia & thesauros innumerabiles pro sustentatione hujus Guerræ, Communes Regni vestri indefesse effuderunt. Et quod gravius dolendum est, jam in diebus vestris tanta onera iis imposita pro Guerris vestris sustinendis, supportaverunt, quod ad tantam pauperiem incredibilem deducti sunt, quod nec redditus suos pro suis tenementis solvere possunt, nec Regi subvenire, nec

and rather to submit my self to Him, than be foil'd by my own Subjects. To which they reply'd, That Counsel is not for your good, but will inevitably tend to your ruine; for the King of France is your capital Enemy, and the greatest Adversary that your Kingdom has; and if he should set his foot within your Kingdom, he would rather endeavour to prey upon you, and invade your Realm, and to depose you from your Royal Dignity, than afford you any Assistance, if, which God forbid, you should stand in need of his help. Call to mind therefore, how your Grandfather King Edward III. and your Father Prince Edward for him, fought indefatigably in sweat and sorrow all their days, and went through innumerable hardships of cold and heat, to acquire the Kingdom of France, which by hereditary Right appertain'd to Them, and does now to You by Succession after them. Remember likewise, how innumerable Lords and Commons of both Realms, and Kings and Gentlemen of other Kingdoms, and People innumerable, perished, or hazarded perishing, in that War; and that the Commons of this Realm pour'd out Goods of inestimable value, and innumerable Sums of Money, for the carrying on of that same War; and, which is more to be lament-

vite necessaria sibi ipsis ministrare, & depauperatur Regia Potestas, & Dominorum Regni, & magnatum infelicitas adducitur, atque totius populi debilitas. Nam Rex depauperari nequit, qui divitem habet populum; nec dives esse potest, qui pauperes habet communes. Et mala hæc omnia redundant non solum Regi, sed & omnibus & singulis Dominis & Proceribus Regni, unicuique in suo gradu. Et hæc omnia eveniunt per iniquos ministros Regis, qui male gubernaverunt Regem & Regnum usque in præsens. Et nisi manus citius apponamus adjuvices, & remedium fulcimentum adhibeamus, Regnum Angliæ dolorose attenuabitur tempore, quo manus opinamur. Sed & unum aliud de nuncio nostro superest nobis ex parte populi vestri vobis intimare. Habent enim EX ANTIQVO STATUTO, & de factio non longe retroactis temporibus experienter quod dolendum est habito, si Rex, EX MALIGNO CONSILIO QUOCUNQUE, vel INEPTA CONTUMACIA, aut CONTEMPTU, seu PROTERVA VOLUNTATE SINGULARI, aut QUOVIS MODO IRREGULARI, se alienaverit à populo suo, nec voluerit per Jura Regni & Statuta ac laudabiles Ordinationes cum salubri consilio Dominorum & Procerum

ted, they have now in your days undergone such heavy Taxes towards the maintaining of your Wars, that they are reduced to such incredible poverty, that they cannot so much as pay their rents for their Farms, nor aid the King, nor afford themselves necessities; and the King himself is impoverished, and the Lords become uneasie, and all the People faint; for a King cannot become poor, that has a rich People; nor can he be rich, whose People are poor. And all these mischiefs redound not to the King only, but also to all and singular the Peers of the Realm, in proportion: And all these mischiefs happen by means of the King's Evil Ministers, who have hitherto misgovern'd both the King & Kingdom; and if some course be not taken, the Kingdom of England will be miserably diminish'd sooner than we are aware. But there remains yet another part of our Message, which we have to impart to you on the behalf of your People. They find in an *ancient Statute*, and it has been done in fact not long ago, That if the King, through any Evil Counsel, or foolish Contumacy, or out of scorn, or some singular petulant Will of his own, or by any other irregular means, shall alienate himself from his

Regni

Regni Gubernari & Regulari, sed captoſe in ſuis inſanis conſiliis propriam voluntatem ſuam ſingularem protevus exercere. cum communi aſſenſu & conſenſu Populi Regni ipſum REGEM DE REGA- LI SOLIO ABROGARE, & propinquiores aliquem de ſtirpe Regia loco eius in Regni ſolio ſubſtituere. H. Knighton, Coll. 2681.

consent of the People of the Realm, to depose that ſame King from his Royal Throne, and to ſet up ſome other of the Royal Blood in his room. H. Knighton, Coll. 2681.

No man can imagine that the *Lords and Commons in Parliament* would have ſent the King ſuch a Meſſage, and have quoted to him an *Old Statute for depoſing Kings* that would not govern according to Law, if the People of England had then apprehended that an obedience *without reſerve* was due to the King, or if there had not been ſuch a Statute in being. And tho' the Record of that *Excellent Law* be loſt, as the Records of almoſt all our Ancient *Laws* are; yet is the Teſtimony of ſo Credible an Hiſtorian, who lived when theſe things were tranſacted, ſufficient to inform us, that ſuch a Law was then known and in being, and conſequently that the *terms of Engliſh Allegiance*, according to the *Conſtitution of our Government*, are different from what ſome *Modern Authors* would perſwade us they are.

This difference betwixt the ſaid King and his *Parliament* ended amicably betwixt them, in the puniſhment of many Evil Counſellors, by whom the King had been influenced to commit many *Irregularities in Government*.

But the Diſcontents of the People grew higher by his After-management of Affairs, and ended in the *Depoſition* of that King, and ſetting up of another, who was not the next Heir in *lineal Succeſſion*.

The Articles against King Richard the Second may be read at large in *M. Knighton, Collect.* 2746, 2747. &c. and are yet extant upon Record. An Abridgment of them is in *Cotton's Records*, pag. 386, 387, 388. out of whom I observe these few, there being in all Thirty Three.

FOR The First was, His mistaking and bestowing the Lands of the Crown upon unworthy Persons, and overcharging the Commons with Exactions. And that whereas certain Lords Spiritual and Temporal were assign'd in Parliament to intend the Government of the Kingdom, the King by a Conventicle of his own Accomplices endeavoured to impeach them of High-Treason.

Another was, For that the King by undue means procured divers Justices to speak against the Law, to the destruction of the Duke of Gloucester, and the Earls of Arundel and Warwick at Shrewsbury.

Another, For that the King against his own Promise and Pardon at a solemn Proceffion, apprehended the Duke of Gloucester, and sent him to Calice, there to be choked and murdered; beheading the Earl of Arundel, and banishing the Earl of Warwick, and the Lord Cobham.

Another, For that the King's Retinue, and a Host gathered by him out of Cheshire, committed divers Murders, Rapes, and other Felonies, and refused to pay for their Victuals.

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Another,

Another, For that the Crown of England being freed from the Pope, and all other Foreign Power, the King notwithstanding procured the Pope's Excommunication, on such as should break the Ordinances of the last Parliament, in derogation of the Crown, Statutes and Laws of the Realm.

Another, That he made Men Sheriffs, who were not named to him by the Great Officers, the Justices and others of his Council; and who were unfit, contrary to the Laws of the Realm, and in manifest breach of his Oath.

Another, For that he did not repay to his Subjects the debts, that he had borrowed of them.

Another, For that the King refused to execute the Laws, saying, That the Laws were in his mouth and breast, and that himself alone could make and alter the Laws.

Another, For causing Sheriffs to continue in Office above a year, contrary to the tenor of a Statute-Law, thereby incurring notorious Perjury.

Another, For that the said King procured Knights of the Shires to be returned to serve his own Will.

Another, For that many Justices, for their good Counsel given to the King, were with Evil Countenance and Threats rewarded.

Another,

Another, For that the King passing into Ireland, had carried with him, without the Consent of the Estates of the Realm, the Treasure, Reliques, and other Jewels of the Realm, which were used safely to be kept in the King's own Coffers from all hazard; And for that the said King cancelled and razed sundry Records.

Another, For that the said King appear'd by his Letters to the Pope, to Foreign Princes, and to his Subjects, so variable, so dissembling, and so unfaithful and inconstant, that no man could trust him, that knew him; insomuch, that he was a Scandal both to himself and the Kingdom.

Another, That the King would commonly say amongst the Nobles, that all Subjects Lives, Lands and Goods were in his hands without any forfeiture; which is altogether contrary to the Laws and Usages of the Realm.

Another, For that he suffered his Subjects to be condemned by Martial-law, contrary to his Oath, and the Laws of the Realm.

Another, For that whereas the Subjects of England are sufficiently bound to the King by their Allegiance, yet the said King compell'd them to take new Oaths.

These Articles, with some others, not altogether of so general a concern, being considered, and the King himself confessing his Defects, the same seemed sufficient to the whole Estates for the King's Deposition, and he was depos'd accordingly.

The substance and drift of all is, That our Kings were anciently liable to, and might lawfully be *deposed for Oppression and Tyranny, for Insufficiency to govern, &c.* and by the *Great Council of the Nation*, without any breach of the *Old Oath of Fealty*, Because (to say nothing of the nature of our *Constitution*) Express and Positive *Laws* warranted such Proceedings: And therefore, the *Frame of Our Government* being the same still, and the *Terms of Our Allegiance* being the same now, that they were then, without any new Obligations superinduced by the *Oaths of Allegiance and Supremacy*, a King of *England* may legally at this day, for sufficient cause, be *deposed* by the *Lords and Commons* assembled in a *Great Council of the Kingdom*, without any breach of the *Present Oaths of Supremacy or Allegiance*. *Quod erat demonstrandum.*

M A N T I S S A

When Stephen was King of England, whom the People had chosen rather than submit to Maud, tho the Great Men of the Realm had sworn Fealty to her in her Father's life-time, Henry Duke of Anjou, Son of the said Maud, afterwards King Henry the Second, invaded the Kingdom Anno Dom. 1153, which was towards the latter end of King Stephen's Reign; and Theobald Archbishop of Canterbury endeavoured to mediate a Peace betwixt them, speaking frequently with the King in private, and sending many Messages to the Duke; and Henry Bishop of Winchester took pains likewise to make them Friends. *Factum est autem, ut mense Novembris, in fine mensis,* EX PRÆCEPTO REGIS ET DUCIS, *convenirent apud Wintoniam Præsules & Principes Regni, ut & ipsi jam initæ paci præberent assensum, & unanimiter juramenti sacramento confirmarent, i. e.* It came to pass, that in the month of November, towards the latter end of the month, A T
 THE

THE SUMMONS OF THE KING
AND OF THE DUKE, the Prelates
and Great Men of the Kingdom were Assem-
bled at Winchester, that they also might assent
to the Peace that was concluded, and unani-
mously swear to observe it.

In that Parliament the Duke was declared
King Stephen's adopted Son, and Heir of the
Kingdom, and the King to retain the Govern-
ment during his Life.

I observe only upon this Authority, That
there being a Controversie betwixt the King
and the Duke, which could no otherwise be
determined and settled but in a Parliament,
the Summons of this Parliament were issued
in the Names of both Parties concerned.

Quisquis habet aures ad audiendum, audiat.

